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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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In the Matter of)
)
Petition for Rulemaking to Adapt)
the Section 214 Process to the) RM-8491
Construction of Video Dialtone)
Facilities)
)
Petition for Relief from Unjust and)
Unreasonable Discrimination in the)
Deployment of Video Dialtone Facilities)

TO: The Commission

**REPLY COMMENTS OF
SOUTHWESTERN BELL TELEPHONE COMPANY**

Southwestern Bell Telephone Company (SWBT), by its attorneys and pursuant to Commission Rule 1.405(b),¹ respectfully submits its Reply Comments in the above-captioned proceedings regarding a Petition for Rulemaking and a Petition for Relief filed by the Center for Media Education, Consumer Federation of America, the Office of Communications of the United Church of Christ, the National Association for the Advancement of Colored People, and the National Council of La Raza (collectively, "Petitioners"). Several parties, including Petitioners, have filed Comments.²

¹ C.F.R. Section 1.405(b).

² Comments have been filed by the following parties: Alliance for Public Technology; American Council on Consumer Awareness, Inc.; Ameritech; Association of America's Public Television Stations; Bell Atlantic; BellSouth; CapAccess; Henry Geller and Barbara O'Connor; GTE; Institute for Agriculture and Trade Policy; Local Community Coalition; Michigan Public Service Commission; National Captioning Institute, Inc.; OMB Watch; Pacific Bell; Pennsylvania Public Utility Commission; Petitioners; Public Service (continued...)

Phrasing their allegations using emotionally-charged terminology, (i.e., "red-lining"), Petitioners ask the Commission to impose additional regulatory barriers to the already burdensome Section 214 video dialtone application process. The additional regulatory hurdles proposed by Petitioners are unwarranted and serve primarily to further impede the deployment of video dialtone. In effect, Petitioners are asking the Commission to reconsider the regulatory framework it adopted in the Video Dialtone Order.³ SWBT strongly urges the Commission to reject both the Petition for Relief and the Petition for Rulemaking filed by Petitioners in this proceeding.

I. THE COMMISSION SHOULD REJECT THOSE COMMENTS SUGGESTING THAT "UNIVERSAL SERVICE" SHOULD BE A REQUIREMENT OF SECTION 214 VIDEO DIALTONE APPLICATIONS.

In its Video Dialtone Order,⁴ the Commission set out the regulatory framework under which local telephone companies could apply, pursuant to Section 214, for certification to provide a "platform" for video dialtone service.⁵ The Commission rejected an

²(...continued)
Commission of the District of Columbia; State of New York Department of Public Service; The Council of 100; United Homeowners Association; and U S West Communications, Inc.

³ Telephone Company - Cable Television Cross-Ownership Rules, Sections 63.54-63.58, CC Docket No. 87-266, 7 FCC Rcd. 5781 (1992) (Video Dialtone Order).

⁴ Id.

⁵ Although not discussed by Petitioners, SWBT would point out that pursuant to the Video Dialtone Order, local telephone companies provide nothing more than the "platform" upon which video information providers (VIPs) may deploy a variety of services, depending on VIPs' perception of market conditions.

invitation from several parties, including some of the Petitioners to independently state a universal service requirement.⁶ Rather, the Commission stated that it "should seek to make available, in response to market demand, nationwide, publicly accessible, advanced telecommunications networks able to provide adequate facilities at reasonable charges."⁷

In their Comments in the present proceeding, Petitioners assert they are not requesting the Commission to revise the definition of "universal service."⁸ Rather, Petitioners suggest they are merely asking the Commission to "clarify" that a "goal" in deploying video dialtone is universal service.⁹

SWBT urges the Commission to reject those Comments, and particularly Petitioners' Comments, urging the Commission to expand the Section 214 video dialtone application process to include a requirement of "universal service," and particularly the type of universal service suggested by Petitioners.¹⁰ As SWBT stated in its Comments, the provision of a video dialtone platform does not present any universal service issues beyond those already addressed by the Commission in its Video Dialtone Order.¹¹ The Commission

⁶ Video Dialtone Order, 7 FCC Rcd at 5806.

⁷ Id.

⁸ Petitioners' Comments at p. 4.

⁹ Id. Petitioners fail to address several key policy issues relating to their proposal to require universal service for video dialtone, such as who would pay for deployment of video dialtone in areas where marketplace demand would otherwise not justify deployment.

¹⁰ See Petitioners' Comments at pp. 6-7.

¹¹ SWBT Comments at pp. 4-5.

adopted a regulatory framework that allows competitive market forces to bring a video dialtone platform to local markets where customer demand justifies an attempt to compete with existing video programming services. The concept of "universal service" simply does not apply where there are similar or equivalent services already universally available to the consumer, which is unquestionably the case with video dialtone.

If, however, the Commission believes additional universal service issues relating to video dialtone should be addressed, SWBT agrees with those Comments suggesting that potential universal service issues should be addressed in a comprehensive proceeding designed to examine all aspects of universal service, especially in an evolving competitive environment.¹² Simply put, Section 214 video dialtone applications are not an appropriate venue to address complex universal service issues, applicable to broadband deployment of a variety of potential services, assuming arguendo they exist in the video dialtone application process at all.

II. THE COMMISSION SHOULD REJECT PETITIONERS' ATTEMPT TO PLACE ADDITIONAL, UNWARRANTED REGULATORY BURDENS ON THE CURRENT SECTION 214 APPLICATION PROCESS FOR VIDEO DIALTONE.

SWBT does not believe that the current Section 214 application process for video dialtone is the ideal framework for expediting the delivery of competing new telecommunications to the

¹² See, e.g., Opposition of Bell Atlantic at pp. 6-7; Ameritech's Opposition to Petition for Relief and Petition for Rulemaking at p. 7.

public. If anything, the current process should be streamlined,¹³ not subjected to additional regulatory burdens which would no doubt further delay the deployment of video dialtone. Streamlining the current video dialtone application process would enable pro-competitive video dialtone services to more quickly make their way to the public, assuming there is sufficient market demand for such services.

Recently, Southwestern Bell Corporation (SBC) and its subsidiary, SWBT, explored with the Commission staff the economics of multiple full-service video information providers participating in video dialtone arrangements.¹⁴ Based on its economic analysis, SBC has suggested to the Commission and its staff that the current video dialtone rules must be changed in order to make video dialtone an economically viable service. If the telephone companies are also required to deploy their broadband networks ubiquitously, without regard to whether the service territory will support the deployment financially through the purchase of remunerative services generated by the new network, the probability of widespread video dialtone deployment becomes even more remote.

¹³ For example, on July 5, 1994 the Commission approved Bell Atlantic-New Jersey's Section 214 application to provide video dialtone in Dover Township, New Jersey. This application was originally filed some 18 months earlier, in December, 1992.

¹⁴ See Ex Parte Comments of SBC and SWBT in CC Docket No. 87-266, filed July 25, 1994.

III. CONCLUSION

For the reasons set forth above, SWBT urges the Commission to not initiate the rulemaking requested by Petitioners, and to deny the additional relief requested by Petitioners.

Respectfully submitted,

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July 27, 1994

CERTIFICATE OF SERVICE

I, Joseph Meier, hereby certify that the foregoing
"Reply Comments of Southwestern Bell Telephone Company", In
Docket No. RM-8491, has been served this 27th day of July, 1994,
to the Parties of Record.



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